

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BOARD OF TRUSTEES of the PIPE FITTERS)	
RETIREMENT FUND, LOCAL 597;)	
BOARD OF TRUSTEES of the PIPE FITTERS)	CIVIL ACTION
WELFARE FUND, LOCAL 597;)	
BOARD OF TRUSTEES of the PIPE FITTERS)	
TRAINING FUND, LOCAL 597; the)	NO.: 12-CV-3339
BOARD OF TRUSTEES of the CHICAGO AREA)	
MECHANICAL CONTRACTING INDUSTRY)	
IMPROVEMENT TRUST;)	JUDGE: HOLDERMAN
THE PIPE FITTERS' ASSOCIATION,)	
LOCAL 597 U.A.; BOARD OF TRUSTEES)	
of the PIPE FITTERS' INDIVIDUAL)	
ACCOUNT and 401(K) PLAN; and)	
BOARD OF TRUSTEES of the PIPE FITTING)	
COUNCIL OF GREATER CHICAGO,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
HERNANDEZ MECHANICAL, INC., an Indiana)	
Corporation; and)	
DANA HERNANDEZ, an Individual,)	
)	
Defendants.)	

MOTION FOR FINAL JUDGMENT IN SUM CERTAIN

Now come Plaintiffs, the BOARD OF TRUSTEES of the PIPE FITTERS RETIREMENT FUND, LOCAL 597, *et al.*, by and through their attorneys, JOHNSON & KROL, LLC, and move this Honorable Court for entry of Final Judgment in favor of Plaintiffs and against Defendants HERNANDEZ MECHANICAL, INC. ("HMI") and DANA HERNANDEZ ("HERNANDEZ") and in support thereof, state as follows:

1. On May 3, 2012, Plaintiffs filed their Complaint in the above-captioned matter.
2. On August 3, 2012, this Honorable Court entered a Stipulated Order of Dismissal to

Retain Jurisdiction to Enforce the Terms of the Parties' Settlement Agreement. (Docket No. 11).

3. On August 1, 2014, this Honorable Court entered an Order of Default and Finding of Liability against HMI and HERNANDEZ for breach of the Collective Bargaining Agreement and Settlement Agreement. (Docket No. 15).
4. Pursuant to the Order of Default and Finding of Liability, Plaintiffs were granted leave to “petition this Court for entry of a final judgment in sum certain upon receipt of a completed payroll compliance audit to include all unpaid contributions, liquidated damages, interest and auditor fees revealed by the payroll compliance audit and any monies currently owed by Defendants pursuant to the Collective Bargaining Agreement, Trust Agreements, Settlement Agreement and 29 U.S.C. §1132(g)(2)(D).” (Docket No. 15).
5. Pursuant to the Order of Default and Finding of Liability, Defendants HMI and HERNANDEZ are “required to pay reasonable attorney’s fees and costs incurred by Plaintiffs pursuant to the Collective Bargaining Agreement, Trust Agreements and 29 U.S.C. §1132(g)(2)(D).” (Docket No. 15).
6. HMI and HERNANDEZ owe the TRUST FUNDS \$35,517.77 remaining on the breached Settlement Agreement of July 2012. (Affidavit of Michael Maloney is attached as Exhibit 1).
7. A payroll compliance audit conducted for the period of September 1, 2010 through May 31, 2014 revealed contribution deficiencies in the amount of \$70,393.81 and 401(k) deficiencies in the amount of \$3,207.85. (Exhibit 1).
8. Moreover, HMI and HERNANDEZ owe the Plaintiffs unpaid contributions in the amount

of \$22,534.19 for the months of March through July 2014. (Exhibit 1).

9. As a result of HMI and HERNANDEZ's untimely submission of monthly contributions, HMI and HERNANDEZ also owe the Plaintiffs liquidated damages in the amount of \$15,492.07 and interest in the amount of \$7,618.17. (Exhibit 1).
10. Defendants HMI and HERNANDEZ are required to pay the Plaintiffs' reasonable attorney's fees and costs pursuant to the Collective Bargaining Agreement, Trust Agreements and 29 U.S.C. §1132(g)(2)(D).
11. To date, Plaintiffs have incurred \$4,770.42 in attorney's fees and costs. (Affidavit of Jessica Adelman is attached as Exhibit 2).
12. A proposed Final Judgment in Sum Certain Order has been submitted to the Court.

WHEREFORE, Plaintiffs request the following:

- A. That a Final Judgment be entered in favor of Plaintiffs and against Defendants HMI and HERNANDEZ, jointly and severally, in the aggregate amount of \$159,534.28, which is itemized as follows:
 1. \$35,517.77 in amounts remaining on the breached Settlement Agreement of July 2012;
 2. \$70,393.81 in unpaid contributions revealed in the payroll compliance audit for the period of September 1, 2010 through May 31, 2014;
 3. \$3,207.85 in unpaid 401(k) elective deferrals revealed in the payroll compliance audit for the period of September 1, 2010 through May 31, 2014;
 4. \$22,534.19 in unpaid contributions for the months of March through July 2014;
 5. \$7,618.17 in unpaid interest through September 30, 2014;

6. \$15,492.07 in unpaid liquidated damages through September 30, 2014; and
 7. \$4,770.42 in attorney's fees and costs.
- B. That Plaintiffs have such other and further relief as the Court may deem just and equitable all at the Defendant's cost, pursuant to 29 U.S.C. §1132(g)(2)(E).

Respectfully submitted,

**BOARD OF TRUSTEES of the PIPE
FITTERS RETIREMENT FUND,
LOCAL 597 *et al.***

/s/ Jessica L. Adelman- 6305349
One of Plaintiffs' Attorneys

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